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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,235	05/31/2001	Jean-Louis Baffier	50277-1511	2420
29989	7590	12/31/2003	EXAMINER	
HICKMAN PALERMO TRUONG & BECKER, LLP 1600 WILLOW STREET SAN JOSE, CA 95125			LE, MIRANDA	
			ART UNIT	PAPER NUMBER
			2177	

DATE MAILED: 12/31/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/872,235

Applicant(s)

BAFFIER ET AL.

Examiner

Miranda Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-70 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-70 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The following is a quote in part of MPEP 608.01(p), concerning the incorporation of subject matter by reference:

"The Commissioner has considerable discretion in determining what may or may not be incorporated by reference in a patent application. *General Electric Co. v. Brenner*, 407 F.2d 1258, 159 USPQ 335 (D.C. Cir. 1968). The incorporation by reference practice with reference to applications which issue as U.S. patents provides the public with a patent disclosure which minimizes the public's burden to search for and obtain copies of documents incorporated by reference which may not be readily available. Through the Office's incorporation by reference policy the Office ensures that reasonably complete disclosures are published as U.S. patents. The following is the manner in which the Commissioner has elected to exercise that discretion.

An application as filed must be complete in itself in order to comply with 35 U.S.C. 112. Material nevertheless may be incorporated by reference, *Ex parte Schwarze*, 151 USPQ 426 (Bd. App. 1966). An application for a patent when filed may incorporate "essential material" by reference to (1) a U.S. patent or (2) a pending U.S. application, subject to the conditions set forth below.

"Essential material" is defined as that which is necessary to (1) describe the claimed invention, (2) provide an enabling disclosure of the claimed invention, or (3) describe the best mode (35 U.S.C. 112). In any application which is to issue as a U.S. patent, essential material may not be incorporated by reference to (1) patents or applications published by foreign countries or a regional patent office, (2) non-patent publications, (3) a U.S. patent or application which itself incorporates "essential material" by reference, or (4) a foreign application.

Nonessential subject matter may be incorporated by reference to (1) patents or applications published by the United States or foreign countries or regional patent offices, (2) prior filed, commonly owned U.S. applications, or (3) non-patent publications. Nonessential subject matter is subject matter referred to for purposes of indicating the background of the invention or illustrating the state of the art.

Mere reference to another application, patent, or publication is not an incorporation of anything therein into the application containing such reference for the purpose of the disclosure required by 35 U.S.C. 112, first paragraph. *In re de Seversky*, 474 F.2d 671, 177 USPQ 144, (CCPA 1973). In addition to other requirements for an application, the referencing application should include an identification of the referenced patent, application, or publication. Particular attention should be directed to specific portions of the referenced document where the subject matter being incorporated may be found. Guidelines for situations where applicant is permitted to fill in a number for Serial No. _____ left blank in the application as filed can be found in *In re Fouché*, 439 F.2d 1237, 169 USPQ 429 (CCPA 1971) (Abandoned applications less than 20 years old can be incorporated by reference to same extent as copending applications; both types are open to public upon referencing application issuing as a patent)."

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The disclosure on pp. 2-3 is objected to since some of these applications have no US Patent Application Serial Numbers issued by the USPTO for the purpose of cross-referencing. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless:

(e) the invention was described in

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-15, 17-27, 30-35, 36-50, 52-62, 65-70 are rejected under 35 U.S.C. 102(e) as being anticipated by Papierniak et al. (US Patent No. 6,151,601).

Papierniak anticipated independent claims 1, 36, by the following:

As to claims 1, 36, Papierniak teaches “a first party managing one or more database systems” at col. 4, lines 12-19, col. 4, lines 29-53, Figs. 3, 22;

“a plurality of second parties subscribing to database services supported by the one or more database systems managed by the first party” at col. 10, lines 30-38, Figs. 3, 22;

“providing, over a network, to database applications controlled by the second parties, access to the database services to which the second parties are subscribed” at col. 4, lines 12-19, col. 4, lines 29-53, col. 10, lines 30-38, Figs. 3, 22.

As to claims 2, 37, Papierniak teaches “at least one of said second parties is an application service provider that provides application services to a plurality of third parties over said network” at col. 4, lines 12-19, col. 4, lines 29-53, col. 10, lines 30-38, col. 9, lines 9-32, Figs. 3, 22;

“the step of providing access to the database services includes providing database services to an application used by said application service provider to provide said application services to said third parties” at col. 4, lines 12-19, col. 4, lines 29-53, col. 10, lines 30-38, col. 9, lines 9-32, Figs. 3, 22.

As to claims 3, 38, Papierniak teaches “receiving over said network a request to perform a database management operation from a user associated with a particular second party of said plurality of second parties” at col. 9, lines 9-32, col. 23, lines 9-44, col. 24, lines 34-39;

“responding to said request by performing said database management operation on one or more databases controlled by said first party without human intervention by said first party” at col. 9, lines 9-32, col. 9, line 49 to col. 10, line 38.

As to claims 4, 39, Papierniak teaches “wherein the one or more database systems are implemented on a set of database devices that include a plurality of database appliances, a

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database appliance comprising database software and non-database software tailored to the needs of the database software” at col. 4, lines 29-53.

As to claims 5, 40, Papierniak teaches “wherein the step of providing access over a network includes providing access over a public network of computer networks” at col. 3, lines 13-23.

As to claims 6, 41, Papierniak teaches “the step of performing the database management operation involves allocating a different amount of resources to said particular second party than is currently allocated for said particular second party” at col. 9, lines 9-24.

As to claims 7, 42, Papierniak teaches “the step of delivering to a party over the network one or more messages which cause generation of user interfaces that allow the party to subscribe to said database services provided by said first party” at col. 9, lines 26-32.

As to claims 8, 43, Papierniak teaches “the user interfaces contain controls for specifying user profile information, payment information, and selection of database services” at col. 10, lines 53-65, col. 10, lines 29-38, col. 16, lines 1-31.

As to claims 9, 44, Papierniak teaches “the step of delivering over the network, to a user associated with one of said second parties, one or more messages which cause generation of user

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interfaces that allow the user to access a database for a database service to which said one of said second parties has subscribed” at col. 16, lines 1-31.

As to claims 10, 45, Papierniak teaches “the first party also provides database application services over said network” at col. 3, lines 13-23;

“the method further comprises the step of delivering over the network, to a user associated with one of said second parties, one or more messages which cause generation of user interfaces that allow the user to access a database application service to which said one of said second parties has subscribed” at col. 9, lines 26-32.

As to claims 11, 46, Papierniak teaches “the step of delivering over the network, to a user associated with one of said second parties, one or more messages which cause generation of user interfaces that allow the user to indicate changes to at least one of profile information, payment information, and the selection of services to which said one of said second parties is subscribed” at col. 10, lines 29-38, col. 10, lines 53-65, col. 16, lines 1-31.

As to claims 12, 47, Papierniak teaches “the step of delivering over the network, to a user associated with one of said second parties, one or more messages which cause generation of user interfaces that allow the user to supply content for a subscribed database” at col. 16, lines 1-26.

As to claims 13, 48, Papierniak teaches “the step of delivering over the network, to a user associated with one of said second parties, one or more messages which cause generation of user

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interfaces that allow the user to develop a new database application” at col. 21, lines 14-22, col. 21, line 39 to col. 22, line 44.

As to claims 14, 49, Papierniak teaches “the step of delivering over the network, to a user associated with one of said second parties, one or more messages which cause generation of user interfaces that allow the user to integrate an external service” at col. 20, line 65 to col. 21, line 4.

As to claims 15, 50, Papierniak teaches “the step of delivering over the network, to a user associated with one of said second parties, one or more messages which cause generation of user interfaces that present a status of a user subscribed resource selected from database resources managed by said first party” at col. 16, lines 1-26, col. 23, lines 9-44.

As to claims 17, 52, Papierniak teaches “the step of the first party updating the one or more database systems by receiving from a community server over the network an update to the one or more database systems, wherein the community server provides the update to a plurality of service providers over said network” at col. 10, lines 29-38.

As to claims 18, 53, Papierniak teaches “the step of the first party sending to a community server a status of a user subscribed resource, wherein the user subscribed resource is maintained by said first party” at col. 10, lines 29-38.

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As to claims 19, 54, Papierniak teaches “presenting to a user associated with said first party a user interface to allow said first party to configure a database device used to provide said database services as one of a dedicated device and a plurality of virtual devices” at col. 21, line 39 to col. 22, line 44.

As to claims 20, 55, Papierniak teaches “presenting to a user associated with said first party a user interface to allow said first party to configure at least one of a dedicated device and a virtual device of a plurality of virtual devices as one of a staging device available only to a database service developer for developing database services, and a production device for making database services available to a user who is not the database service developer” at col. 12, lines 52-60.

As to claims 21, 56, Papierniak teaches “presenting a user interface for transferring an application from a staging device to a production device” at col. 12, line 52 to col. 13, line 24.

As to claims 22, 57, Papierniak teaches “the step of delivering to a party over the network one or more messages which cause generation of user interfaces that allow the party to subscribe to said database services is performed as part of a registration process” at col. 21, lines 14-22;

“the interfaces include controls for receiving a user input value for a maximum amount of subscribed resources” at col. 21, lines 14-22;

“the method further includes the step of presenting an alert if an amount of subscribed resources consumed by said party exceeds a threshold percentage of the maximum amount of subscribed resources” at col. 21, line 39 to col. 22, line 44.

As to claims 23, 58, Papierniak teaches “the steps of receiving a user input value for a particular threshold percentage” at col. 21, line 39 to col. 22, line 44;

“presenting an alert if an amount of resources consumed by said party exceeds the particular threshold percentage of the maximum amount of subscribed resources” at col. 21, lines 14-22, col. 22, lines 1-44.

As to claims 24, 59, Papierniak teaches “the maximum amount of subscribed resources includes a maximum amount of at least one of an amount of storage space” at col. 21, lines 39-67.

As to claims 25, 60, Papierniak teaches “presenting to the user a set of selectable sources of content” at col. 16, lines 22-27;

“receiving user input indicating a selected source” at col. 16, lines 22-27;

“launching a source update process to connect to the selected source and update a database with information received from the selected sources” at col. 17, lines 13-35.

As to claims 26, 61, Papierniak teaches “the user input indicating a selected source also indicates a schedule for updating from the selected source” at col. 17, lines 24-34;

“the source update process connects to the selected source according to the schedule for updating from the selected source” at col. 17, lines 24-34.

As to claims 27, 62, Papierniak teaches “in response to user input that specifies that data should be loaded into a subscribed database, determining whether the subscribed database currently exists for said one of said second parties” at col. 21, lines 14-22, col. 21, lines 39-67;

“creating the subscribed database if the subscribed database does not currently exist for said one of said second parties” at col. 21, lines 14-22, col. 21, lines 39-67.

As to claims 30, 65, Papierniak teaches “the step of developing a new database application further comprising the steps of receiving input from the user indicating the new application is ready for operational use” at col. 23, lines 10-22, col. 23, lines 29-44;

“in response to receiving input from the user indicating the new application is ready for operational use, launching a production transfer process including sending a request to the first party to transfer the new application to a production device on which the new application may be accessed by users who did not develop the new application” at col. 16, lines 1-26.

As to claims 31, 66, Papierniak teaches “the step of integrating comprises the steps of presenting a representation of a selectable external service” at col. 20, line 54 to col. 21, line 13;

“receiving user input indicating a selected external service” at col. 20, line 54 to col. 21, line 13;

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“launching an integration process to provide the external service to the user” at col. 20, line 54 to col. 21, line 13.

As to claims 32, 67, Papierniak teaches “the selectable external service includes at least one of a payment service” at col. 20, line 54 to col. 21, line 13.

As to claims 33, 68, Papierniak teaches “setting up database parameters” at col. 13, lines 1-8;

“reporting database usage” at col. 13, lines 1-14;

“backing up the database” at col. 17, lines 24-35;

“upgrading the database” at col. 21, line 55;

“controlling database versions” at col. 21, line 63;

“implementing database security” at col. 21, lines 14-22;

“implementing data security within the database” at col. 21, lines 14-22.

As to claims 34, 69, Papierniak teaches “the steps of if a costing database does not already exist, then automatically creating the costing database of database resource usage by user, and initiating a costing model with price per unit of consumable resource per service” at col. 22, lines 9-44, col. 24, lines 51-65, Fig. 20;

“inserting data into the costing database based on actual use of database resources by the user” at col. 22, lines 14-44;

“executing the costing model to compute a cost-per-user based on the data in the costing database and the price per unit of consumable resource per service” at col. at col. 22, lines 14-44;

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“billing the user for the cost computed by the costing model” at col. 10, lines 55-59, col. 17, lines 25-35, col. 21, lines 2-5.

As to claims 35, 70, Papierniak teaches “the costing model supports: fixed price per unit of usage” at col. 22, lines 14-44, col. 21, lines 14-22, Fig. 20;

“variable price per unit usage as a function of usage” at col. 22, lines 14-44, col. 21, lines 14-22, Fig. 20;

“flat price up to a maximum value of usage” at col. 21, lines 39-67;

“different prices for different users” at col. 22, lines 14-44, col. 21, lines 14-22, Fig. 20;

“different prices for different services” at col. 22, lines 14-44, col. 21, lines 14-22, Fig. 20;

“different prices for increments of usage above a maximum subscribed usage” at col. 21, lines 39-67.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 16, 28-29, 51, 63-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Papierniak et al. (US Patent No. 6,151,601), in view of Moore et al. (US Patent No. 6,330,575 B1).

As to claims 16, 51, Papierniak does not explicitly teach the following limitations.

However, Moore teaches "delivering over the network, to a user associated with one of said second parties, one or more messages which cause generation of user interfaces that present the user with a user-selectable representation of a wizard for building a Web page with a database component associated with an interface to a database" at col. 5, lines 36-48, col. 10, lines 44-58, Abstract,

"receiving user input indicating the wizard" at col. 5, lines 36-48, col. 10, lines 44-58, Abstract;

"executing said wizard, including presenting a series of screens to the user to prompt user input for building the Web page" at col. 5, lines 36-48, col. 10, lines 44-58, Abstract.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Papierniak with the teachings of Moore to include all these above limitations in order to allow users to design a web site in only a few minutes and does not require any special Internet knowledge.

As to claims 28, 63, Papierniak teaches " wherein a staging database device can be accessed by the user for developing the new database application and cannot be accessed by users associated with other parties of said plurality of second parties" at col. 12, lines 52-61;

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“receiving development input from the user; and building a new application on the staging database device based on the selected development kit and the development input” at col. 12, lines 52-61, col. 25, lines 1-32.

Papierniak does not expressly teach the following limitations, however, Moore teaches “presenting representations of selectable application development kits” at col. 10, lines 23-42;

“receiving user input indicating a selected development kit from the user” at col. 10, lines 23-42;

“launching a staging process including configuring consumable database resources on a staging database device” at col. 10, lines 23-42

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Papierniak with the teachings of Moore to include "presenting representations of selectable application development kits; receiving user input indicating a selected development kit from the user; launching a staging process including configuring consumable database resources on a staging database device" in order to provide a development tool which simplifies the design, creation, and maintenance of a Web site for merchants.

As to claims 29, 64, Papierniak does not specifically teach the following limitations. However, Moore teaches “the step of developing the new database application further comprising the steps of after receiving user input indicating a selected development kit, determining whether a client process of the selected development kit must be downloaded to a computer of the user over the wide area network” at col. 10, lines 23-42;

“if it is determined the client process of the selected development kit must be downloaded, downloading the client process to the computer of the user over the wide area network before the step of building the new application” at col. 10, lines 23-42.

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Papierniak with the teachings of Moore to include "the step of developing the new database application further comprising the steps of after receiving user input indicating a selected development kit, determining whether a client process of the selected development kit must be downloaded to a computer of the user over the wide area network; if it is determined the client process of the selected development kit must be downloaded, downloading the client process to the computer of the user over the wide area network before the step of building the new application" in order to provide a development tool which simplifies the design, creation, and maintenance of a Web site for merchants.

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Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Miranda Le whose telephone number is (703) 305-3203. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene, can be reached on (703) 305-9790. The fax number to this Art Unit is (703) 872-9306. The TC 2100's Customer Service number is (703) 306-5631.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.



Miranda Le
December 12, 2003



GRETA ROBINSON
PRIMARY EXAMINER